

This notice sets forth the times and locations that the Virginia program and proposed amendment to the program are available for public inspection, the comment period during which interested parties may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is required.

**DATES:** Written comments must be received on or before 4 p.m. on September 6, 1990. If requested, a public hearing on the proposed amendment will be held on September 3, 1990; requests to present testimony at the hearing must be received on or before 4 p.m. August 22, 1990.

**ADDRESSES:** Written comments and requests to testify at the hearing should be mailed on hand delivered to Mr. W. Russell Campbell, Deputy Director, Big Stone Gap Field Office at the first address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Virginia program, proposed amendments and all written comments received in response to this notice will be available for review at the locations listed below during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSM Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, P.O. Box 1216, Powell Valley Square Shopping Center, room 220, Route 23, Big Stone Gap, Virginia 24219, Telephone (703) 523-4303.

Virginia Division of Mined Land Reclamation, P.O. Drawer U, 622 Powell Avenue, Big Stone Gap, Virginia 24219, Telephone (703) 523-8100.

**FOR FURTHER INFORMATION CONTACT:** Mr. W. Russell Campbell, Deputy Director, Big Stone Gap Field Office, Telephone (703) 523-4303.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The Secretary of the Interior approved the Virginia program on December 15, 1981. Information pertinent to the general background and revisions to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the December 15, 1981 *Federal Register* (46 FR 61085-61115). Subsequent actions concerning the conditions of approval

and proposed amendments are identified at 30 CFR 946.12, 946.13, 946.15, and 946.16.

##### **II. Discussion of Amendments**

By letter dated June 29, 1990, (Administrative Record No. VA-752) Virginia submitted a proposed amendment to its program pursuant to SMCRA. The proposed amendment was submitted in response to May 11, 1989, and November 17, 1989, letters from OSM (Administrative Record Nos. VA-726 and VA-743) in accordance with 30 CFR part 732 and in response to a required amendment under 30 CFR 946.16 (55 FR 3738, February 5, 1990). The May 11, 1989, part 732 letter (Administrative Record No. VA-726) requires certain provisions of the State program to be undated for consistency with Federal regulations relating to ownership and control and permit rescission criteria and procedures promulgated through April 28, 1989. One of the deficiencies identified in the November 17, 1989, part 732 letter (Administrative Record No. VA-743) is included in this proposed amendment because of its close relationship to the ownership and control regulations. A brief description of the proposed changes is outlined below.

Virginia proposes to amend: Section 480-03-19.700.5, Definitions; Section 480-03-19.773.15(b)(1), (b)(1)(ii), (b)(2), (b)(3), and (e), Review of Permit Applications; Section 480-03-19.773.17(h), (h)(1), and (h)(2), Permit Conditions; Section 480-03-19.778.13, 778.13(b), (b) (1-3), (c), (c)(1-5), (d), (d)(1), (d)(2), (j), and (k), Identification or Interests; Section 480-03-19.778.14, 778.14(c), (c)(1), and (d), Violation Information; Section 480-03-19.843.11(g), Cessation Orders; and Section 480-03-19.843.13 (Revised Title), Suspension or Revocation of Permits: Pattern of Violations.

Virginia proposes to add: Section 480-03-19.773.20, Improvidently Issued Permits: General Procedures; and Section 480-03-19.773.21, Improvidently Issued Permits: Rescission Procedures.

##### **III. Public Comment Procedures**

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Virginia satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Virginia program.

##### *Written Comments*

Written comments should be specific, pertain only to the issues proposed in

this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Big Stone Gap Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

##### *Public Hearing*

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by close of business on August 22, 1990. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

##### *Public Meeting*

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held.

Persons wishing to meet with OSM representative to discuss the proposed amendments may request a meeting at the Big Stone Gap Field Office by contacting the persons listed under "FOR FURTHER INFORMATION CONTACT". All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under "ADDRESSES". A written summary of each public meeting will be made part of the Administrative Record.

##### **List of Subjects in 30 CFR Part 946**

Coal mining, Intergovernmental relations, Surface mining, and Underground mining.

Dated: July 25, 1990.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Field Operations.

[FR Doc. 90-18429 Filed 8-6-90; 8:45 am]

BILLING CODE 4310-05-M



## 30 CFR Part 948

**West Virginia Regulatory Program, Definitions, Sediment Control Structures, Fills, Other Modifications and Corrections**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** OSM is announcing the receipt of a proposed amendment to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment contains revisions to the State's Surface Mining Reclamation Regulations (title 38, series 2) which were partially approved by the Secretary of the Interior in the Federal Register on May 23, 1990 (55 FR 21304-21340). The proposed amendment is intended to satisfy seven required amendments at 30 CFR 948.16 relating to the State's definition of downslope, embankment, impoundment and prospecting; the design, construction, maintenance, abandonment, certification and inspection of bench control systems and completely incised sediment control structures; the removal of organic material from the critical foundation areas of excess spoil disposal fills; and the construction of diversion channels to divert run-off from areas adjacent to and above both valley fills constructed with rock core chimney drains and durable rock fills. The proposed amendment also contains approximately sixteen revisions to the State's regulations that were made by the West Virginia Legislature subsequent to the Department of Energy's February 7, 1990, submission which was partially approved on May 23, 1990. In addition, the proposed amendment contains modifications to correct a number of clerical or editorial errors in the State's regulations.

This notice sets forth the times and locations that the West Virginia program and the proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

**DATES:** Written comments must be received on or before 4 p.m. on September 6, 1990. If requested, a public hearing on the proposed amendments will be held at 1 p.m. on August 27, 1990. Requests to present oral testimony at

the hearing must be received on or before 4 p.m. on August 22, 1990.

**ADDRESSES:** Written comments should be mailed or hand delivered to the Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301.

Copies of the proposed amendment (Administrative Record No. WV 845), the West Virginia program, and the administrative record on the West Virginia program are available for public review and copying at the OSM office and the office of the State regulatory authority listed below, Monday through Friday, 9 a.m. to 4 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158

West Virginia Department of Energy, 1615 Washington Street, East, Charleston, West Virginia 25311, Telephone: (304) 348-3500

In addition, copies of the proposed amendment are available for inspection during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, room 229, Morgantown, West Virginia 26505, Telephone: (304) 291-4004

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 101 Harper Park Drive, Beckley, West Virginia 25801, Telephone: (304) 255-5265

Each requester may receive one free copy of the proposed amendment by contacting the OSM Charleston Field Office.

**FOR FURTHER INFORMATION CONTACT:** Mr. James C. Blankenship, Jr., Director, Charleston Field Office; Office of Surface Mining Reclamation and Enforcement; 603 Morris Street; Charleston, West Virginia 25301; Telephone (304) 347-7158.

**SUPPLEMENTARY INFORMATION:****I. Background on the West Virginia Program**

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. Information concerning the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and an explanation of the initial conditions of the approval of the West Virginia program can be found in the January 21,

1981, Federal Register (46 FR 5915-5956). Subsequent actions concerning the West Virginia program and previous amendments are codified at 30 CFR 948.11, 948.12, 948.13, 948.15, and 948.16.

**II. Discussion of Proposed Amendment**

On May 23, 1990, the Secretary of the Interior announced in the Federal Register his decision to approve, with certain exceptions, West Virginia's Surface Mining Reclamation Regulations as submitted on April 26, 1989 and revised on December 19, 1989 and February 7, 1990 (55 FR 21304-21340). The notice which summarizes the comments received on the State's revised regulations and the Secretary's disposition of those comments was published in the Federal Register on June 12, 1990 (55 FR 23703-23728).

As explained in the May 23, 1990, Federal Register notice, the Secretary found thirty-six provisions in West Virginia's revised regulations to be less effective than the corresponding Federal requirements. Because seven of those provisions could cause immediate environmental and enforcement problems, the Secretary required the State to submit amendments to those provisions by June 29, 1990. The remaining twenty-nine required amendments are to be submitted by April 30, 1991. In addition, the Secretary did not approve twelve specific provisions in the State's revised regulations. Because of that action, none of the disapproved provisions are enforceable by the State.

On June 21, 1990, OSM provided the State copies of the May 23 and June 12, 1990 Federal Register notices (Administrative Record No. WV 844). In addition to submitting the seven required amendments by June 29, 1990, OSM advised the West Virginia Department of Energy that approximately fifteen modifications had been made to its regulations by the West Virginia Legislature subsequent to its February 7, 1990, submission which would also have to be submitted to OSM for approval.

On June 29, 1990, pursuant to 30 CFR 948.16, the West Virginia Department of Energy submitted revisions to its Surface Mining Reclamations Regulations to satisfy seven of the thirty-six inconsistencies identified in its regulations on May 23, 1990 (Administrative Record No. WV 845). The revisions pertain to the State's definitions of downslope, embankment, impoundment and prospecting; the design, construction, maintenance, abandonment, certification and inspection of bench control systems and



completely incised sediment control structures; the removal of organic material from the critical foundation areas of excess spoil disposal fills; and the construction of diversion channels to divert run-off from areas adjacent to and above both valley fills constructed with rock core chimney drains and durable rock fills.

The Department of Energy also submitted modifications to its regulations relating to applicant violation information, the removal of abandoned coal refuse disposal piles, geologic information, transfer assignment or sale of permit rights, incidental boundary revisions, permit findings and conditions, the final planting report, bond forfeiture sites, the application for small operator assistance, and inspection frequencies. These sixteen modifications were made by the West Virginia Legislature subsequent to the Department of Energy's February 7, 1990, program amendment submission that was partially approved on May 23, 1990.

In addition to the required amendments and the legislative modifications, the Department of Energy revised its regulations to correct a number of clerical or editorial errors concerning the definition of bench control system, maps, the removal of abandoned coal refuse disposal piles, sediment control structures, blasting, liability insurance, prospecting, inactive status, durable rock fills, remining and coal refuse disposal. The Department of Energy also submitted rationale to support alternative proposals relating to spoil disposal involving multiple-seam mining operations in steep slope areas and the construction of diversion channels across excess spoil disposal fills.

### III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comments on the proposed amendment submitted by the State of West Virginia to its permanent regulatory program. Specifically, OSM is seeking comments on the revisions to the State's Surface Mining Reclamation Regulations that were submitted on June 29, 1990 (Administrative Record No. WV 845). Comments should address whether the proposed revisions are in accordance with SMCRA and no less effective than its implementing regulations. If approved, the amendment will become part of the West Virginia permanent regulatory program.

#### Written Comments

Written comments should be specific, pertain only to the issues proposed in

this rulemaking and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the OSM Charleston Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

#### Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by the close of business on August 22, 1990. If no one has requested an opportunity to participate in the hearing by that date, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate remarks and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

#### Public Meeting

If only one person requests to comment at a hearing, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM Charleston Field Office listed under "ADDRESSES" by contacting the person listed under "FOR FURTHER INFORMATION CONTACT".

All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under "ADDRESSES". A written summary of each public meeting will be made a part of this Administrative Record.

#### List of Subjects in 30 CFR Part 943

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 27, 1990.

Carl C. Close,

Assistant Director, Eastern Field Operations.  
[FR Doc. 90-18428 Filed 8-6-90; 8:45 am]

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## Fish and Wildlife Service

### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; Finding on Petition To Reclassify the Grizzly Bear in the North Cascades Area as Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of petition finding and initiation of status review.

**SUMMARY:** The U.S. Fish and Wildlife Service announces a 90-day petition finding for a petition to amend the List of Endangered and Threatened Wildlife and Plants. The petitioners presented substantial information that reclassifying the grizzly bear in the North Cascades area in Washington from threatened to endangered may be warranted.

**DATES:** The finding announced in this notice was made in July 1990. Comments and information for the Service's use in issuing its 12-month finding must be received by November 20, 1990.

**ADDRESSES:** Comments or questions concerning this finding should be sent to Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, NS 312, University of Montana, Missoula, Montana 59812. The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Dr. Christopher Servheen (see "ADDRESSES" above) (406/329-3223 or FTS 585-3223).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that the U.S. Fish and Wildlife Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petition action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the Federal Register. If the finding is positive, the Service also is required to promptly commence a review of the status of the involved species. A status review is initiated herewith, and the Service seeks information until November 20, 1990.

The Service has received and made a 90-day finding on the following petition:



A petition dated March 13, 1990, was received from The Humane Society of the United States, Greater Ecosystem Alliance, North Cascades Audubon Society, Kittitas Audubon Society, Pilchuck Audubon Society, Skagit Alpine Club, North Cascades Conservation Council, and Carol Rae Smith on March 14, 1990. The petition requested the Service to reclassify the grizzly bear (*Ursus arctos horribilis*) in the North Cascades area of Washington State from threatened to endangered.

The petitioners submitted information that there is a very small grizzly bear population remaining in the North Cascades area. They also indicated that a range of threats exist to the survival of the remaining small population of bears from road construction, land management activities, livestock grazing, land development, and

inadequate support from management agencies. The petitioners further indicated that the present population of grizzly bears in the North Cascades area may number fewer than 10-20 animals. They also questioned the numbers and genetic viability of the grizzly bear population on the Canadian side of the United States/Canadian border adjacent to the range of the population in the North Cascades.

After a review of the petition, accompanying documentation, and references cited therein, the Service found the petition presented substantial information that the requested action may be warranted. Within 1 year from the date the petition was received, a finding as to whether the petitioned action is warranted is required by section 4(b)(3)(B) of the Act.

#### Author

This notice was prepared by Dr. Christopher Servheen (see **ADDRESSES** above).

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: July 31, 1990.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 90-18378 Filed 8-6-90; 8:45 am]

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